

## DECLARATION

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name,

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

### **NUTRITIONAL SUPPLEMENTS CONTAINING METHYLESELENOCYSTEINE**

the specification of which (I authorize Choate, Hall & Stewart to check one of the following, three choices, and fill in the blanks, if applicable):

X is attached hereto

\_\_\_\_\_ was filed on \_\_\_\_\_ as Application Serial No. \_\_\_\_\_  
and amended on \_\_\_\_\_ (if applicable).

\_\_\_\_\_ was filed as PCT international application No. \_\_\_\_\_,  
on \_\_\_\_\_ and was amended under PCT Article 19  
on \_\_\_\_\_ (if applicable).

I hereby state that I have reviewed and understood the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledged the duty to disclose information which is material to the examination of this application in accordance with Title 37, Code of Federal Regulations, §1.56.

I hereby claim foreign priority benefits under Title 35, United States Code, §119 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed:

Prior Foreign Application(s): Priority Claimed

(Number)	(Country)	(Day/Month/Year/Filed)	Yes	No
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(Number)	(Country)	(Day/Month/Year/Filed)	Yes	No
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I hereby claim the benefit under Title 35, United States Code, §120 of any United States application(s) or PCT international application(s) designating the United States of America listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, §112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, §1.56 which became available between the filing date of the prior application and the national or PCT international filing date of this application:

09/041,355      March 12, 1998      Pending  
(Application Serial No.)    (filing date)        (status-patented, pending, abandoned)

                                                                                      
(Application Serial No.)    (filing date)        (status-patented, pending, abandoned)

PCT Applications designating the United States:

                                                                                      
(PCT Appl. No.)            (U.S.S.N.)        (status-patented, pending, abandoned)

I hereby claim the benefit under Title 35, United States Code, §119(e) of any United States provisional application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, §112, I acknowledge the duty to disclose information which is material to patentability as defined in Title 37, Code of Federal Regulations, §1.56 which became available between the filing date of the prior application and the national filing date of this application.

Provisional Application(s):

                                                                                      
Application Number        Filing Date        Status

                                                                                      
Application Number        Filing Date        Status

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United State Code and that such willful false statements may jeopardize the validity of the application or any patents issued thereon.

Full name of first inventor Burt D. Ensley

Inventor's signature \_\_\_\_\_ Date: \_\_\_\_\_

Residence 7 Colts Neck Drive, Newton, PA 18940

Citizenship United States

Post Office Address Same

Full name of first inventor David Salt

Inventor's signature \_\_\_\_\_ Date: \_\_\_\_\_

Residence 231 Montgomery Street, Highland Park, NJ 08904

Citizenship United States

Post Office Address Same

Full name of first inventor Cynthia Orser

Inventor's signature \_\_\_\_\_ Date: \_\_\_\_\_

Residence \_\_\_\_\_

Citizenship \_\_\_\_\_

Post Office Address \_\_\_\_\_

**ATTORNEY'S DOCKET NO.: 2002645-0003**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant: Ensley *et al.*  
Serial Number: Not Assigned  
Filed: September 12, 2000  
For: NUTRITIONAL SUPPLEMENTS CONTAINING  
METHYSELENOCYSTEINE

Commissioner for Patents  
Washington, D.C. 20231

Sir:

**APPOINTMENT OF ATTORNEY**

The undersigned hereby appoints Sam Pasternack, Registration No. 29,576; Brenda Herschbach Jarrell, Registration No. 39,223; Elizabeth Nugent, Registration No. 43,839; Karoline Shair, Registration No. 44,332; Valarie B. Rosen, Registration No. 45,698; Stanley C. Mah, Registration No. 46,189; C. Hunter Baker, Reg. No. P-46,533; and Monica R. Gerber, Reg. No. P-46,724 as its attorneys and agents for prosecution of matters relating to the above-identified patent application and to conduct all business in the United States Patent and Trademark Office.

All correspondence should be sent to Brenda Herschbach Jarrell, Choate, Hall & Stewart, Exchange Place, 53 State Street, Boston, Massachusetts 02109.

Respectfully submitted,

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Name: John Benneman  
Title: CEO  
On behalf of NuCycle Therapy, Inc.

Dated: \_\_\_\_\_, 2000

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ATTORNEY'S DOCKET NO.: 2002645-0003

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Ensley, *et al.*  
Serial No.: Not Assigned  
Filed: September 12, 2000  
For: NUTRITIONAL SUPPLEMENTS CONTAINING  
METHYLSelenocysteine

Commissioner for Patents  
Washington, DC 20231

VERIFIED STATEMENT (DECLARATION) CLAIMING SMALL ENTITY STATUS

37 CFR 1.9(f) and 1.27(c)  
SMALL BUSINESS CONCERN

I hereby declare that I am

( ) the owner of the small business concern identified below:  
(X) an official empowered to act on behalf of the small business concern identified  
below:

NAME OF CONCERN: NuCycle Therapy, Inc.  
ADDRESS OF CONCERN: One Deer Park Drive, Suite 1, Monmouth Junction, NJ 08852

I hereby declare that the above-identified small business concern qualifies as a small business concern as defined in 13 CFR 121.3-18, and reproduced in 37 CFR 1.9(d), for purposes of paying reduced fees under section 41(a) and (b) of Title 35, United States Code, in that the number of employees of the concern, including those of its affiliates, does not exceed 500 persons. For the purposes of this statement, (1) the number of employees of the business concern is the average over the previous fiscal year of the concern of the persons employed on a full time, part time, or temporary basis during each of the pay periods of the fiscal year, and (2) concerns are affiliates of each other when, either directly or indirectly, one concern controls or has the power to control the other, or a third party or parties controls or has the power to control both.

I hereby declare that rights under contract of law have been conveyed to and remain with the small business concern identified above with regard to the invention titled:

TITLE: NUTRITIONAL SUPPLEMENTS CONTAINING METHYLSelenocysteine

by:

INVENTOR(S): Burt D. Ensley, David Salt, and Cynthia Orser

described in:

(X) the specification filed herewith  
( ) U.S. Patent Application Serial Number \_\_\_\_\_  
              filed \_\_\_\_\_  
( ) U.S. Patent Number \_\_\_\_\_  
              issued \_\_\_\_\_

If the rights of the above-identified small business concern are not exclusive, each individual, concern, or organization having rights to the invention is listed below\* and no rights to the invention are held by any person, other than the inventor(s), who could not qualify as a small business concern under 37 CFR 1.9(d) or a non-profit organization under 37 CFR 1.9(e).

\*NOTE: Separate verified statements are required from each named person, concern, or organization having rights to the invention, averring to their status as small entities. (37 CFR 1.27).

FULL NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

( ) INDIVIDUAL ( ) SMALL BUSINESS CONCERN ( ) NON-PROFIT ORGANIZATION

FULL NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

( ) INDIVIDUAL ( ) SMALL BUSINESS CONCERN ( ) NON-PROFIT ORGANIZATION

I acknowledge the duty to file, in this application or patent, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small entity is no longer appropriate. (37 CFR 1.28(b))

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under §1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

NAME OF PERSON SIGNING: John Benneman

TITLE IN ORGANIZATION: CEO

ADDRESS OF PERSON SIGNING NuCycle Therapy, Inc.

One Deer Park Drive, Suite 1

Monmouth Junction, NJ 08852

SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

A S S I G N M E N T

In consideration of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, the undersigned **Burt D. Ensley, David Salt, and Cynthia Orser**, hereby

Sells, assigns and transfers to **NuCycle Therapy, Inc.**, having a place of business at **One Deer Park Drive, Suite 1, Monmouth Junction, NJ 08852**, its successors, assigns and legal representatives, all hereinafter referred to as the ASSIGNEE, the entire right, title and interest for the United States and all foreign countries, in and to any and all inventions which are disclosed in the application for United States Letters Patent entitled "**Nutritional Supplements Containing Methylselenocysteine**" filed **herewith**, and given serial number **not assigned** in and to said application and all divisional, continuing, substitute, renewal, reissue and all other applications for Letters Patent which have been or shall be filed in the United States and all foreign countries on any of said inventions; and in and to all original and reissued patents which have been or shall be issued in the United States and all foreign countries on said inventions including the right to apply for patent rights in each foreign country and all rights to priority.

Agree that said ASSIGNEE may apply for and receive Letters Patent for said inventions in its own name; and when requested, without charge to but at the expense of said ASSIGNEE, agree to carry out in good faith the intent and purpose of this assignment by executing all divisional, continuing, substitute, renewal, reissue, and all other patent applications on any and all said inventions, by executing all rightful oaths, assignments, powers of attorney and other papers, by communicating to said ASSIGNEE all facts known to us relating to said inventions and the history thereof, and generally by doing everything possible which said ASSIGNEE shall consider desirable for aiding in securing and maintaining proper patent protection for said inventions and for vesting title to said inventions and all applications for patents and all patents on said inventions, in said ASSIGNEE.

Hereby request the Honorable Commissioner of Patents and Trademarks to issue said Letters Patent to said ASSIGNEE.

Covenant with said ASSIGNEE that no assignment, grant, mortgage, license or other agreement affecting the rights and property herein conveyed has been made to others by us, and that full right to convey the same as herein expressed is possessed by us.

**Attorney Docket No. 2002470-0002**

IN WITNESS WHEREOF, I hereto set my hand and seal at \_\_\_\_\_,  
\_\_\_\_\_  
this \_\_\_\_\_ day of \_\_\_\_\_, 2000.

**Burt D. Ensley**

STATE OF \_\_\_\_\_.  
SS.

COUNTY OF \_\_\_\_\_.

Before me this \_\_\_\_\_ day of \_\_\_\_\_, 2000, personally appeared  
**Burt D. Ensley** known to me to be the person whose name of subscribed to the foregoing  
Assignment and acknowledged that he executed the same as his free act and deed for the  
purposes therein contained.

NOTARY PUBLIC

[Notary's Seal Here]

My Commission Expires:

**Attorney Docket No. 2002470-0002**

IN WITNESS WHEREOF, I hereto set my hand and seal at \_\_\_\_\_,  
\_\_\_\_\_  
this \_\_\_\_\_ day of \_\_\_\_\_, 2000.

**David Salt**

STATE OF \_\_\_\_\_.  
ss.

COUNTY OF \_\_\_\_\_.

Before me this \_\_\_\_\_ day of \_\_\_\_\_, 2000, personally appeared  
**David Salt** known to me to be the person whose name is subscribed to the foregoing  
Assignment and acknowledged that he executed the same as his free act and deed for the  
purposes therein contained.

NOTARY PUBLIC

[Notary's Seal Here]

My Commission Expires:

**Attorney Docket No. 2002470-0002**

IN WITNESS WHEREOF, I hereto set my hand and seal at \_\_\_\_\_,  
\_\_\_\_\_  
this \_\_\_\_\_ day of \_\_\_\_\_, 2000.

**Cynthia Orser**

STATE OF \_\_\_\_\_.  
SS.

COUNTY OF \_\_\_\_\_.

Before me this \_\_\_\_\_ day of \_\_\_\_\_, 2000, personally appeared  
**Cynthia Orser** known to me to be the person whose name is subscribed to the foregoing  
Assignment and acknowledged that he executed the same as his free act and deed for the  
purposes therein contained.

NOTARY PUBLIC

[Notary's Seal Here]

My Commission Expires:

JC759 U.S. PTO  
09/659926  
09/12/00



ATTORNEY'S DOCKET NO.: 2002645-0003/NuCYCLE THERAPY, INC.

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant: Ensley, *et al.*  
Serial No.: Not Assigned  
Filed: Herewith  
For: NUTRITIONAL SUPPLEMENTS CONTAINING  
METHYLSELENOCYSTEINE

Commissioner for Patents  
Washington, DC 20231

Sir:

**ESTABLISHING RIGHT OF ASSIGNEE TO TAKE ACTION**  
**(37 CFR 3.73(b))**

The assignee of the entire right, title and interest, NuCycle Therapy, Inc., hereby seeks to take action in the Patent and Trademark Office in the above matter.

Ownership by the assignee is established as follows:

documents already recorded in the PTO on \_\_\_\_\_.

Reel \_\_\_\_\_ Frame \_\_\_\_\_; and

documents separately submitted for recordal to the PTO (a copy of these documents is attached).

**STATEMENT**

I, a person authorized to sign on behalf of the assignee, have reviewed the evidentiary documents referred to above and certify that, to the best of my knowledge and belief, title is mine/ours as assignees who seek to take further action.

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Name: John Benneman  
Title: CEO

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